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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/802,298

03/16/2004

Rudolf Kienzler

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06/02/2006

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EXAMINER

MILLS, DANIEL J

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,298

Applicant(s)

KIENZLER, RUDOLF

Examiner

Daniel J. Mills

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 10-21 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-12 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/6/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 13-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/29/2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 10-12, 19-21 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation "virtual, freely guided pivoting axle/shaft" in claims 10, 12, 19, 21 was not originally disclosed. Originally disclosed was a "hinge-axis" or "bearing-axis", applicant apparently feels this is different from an axle/shaft, judging from the amendment made to the claims to incorporate this new matter, presumably in an attempt to overcome prior art rejections. The specification amendment filed 3/6/2006 introduces new matter to paragraphs 0042, 0049, and 0085.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 10-12, 19-21 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "virtual, freely guided pivoting axle/shaft" in claims 10, 12, 19, 21 is unclear, as what constitutes a "virtual" structure is not defined.

The limitation "pinless rotatable" in claim 19 is unclear, does applicant intend to disclaim a pin?

The limitation "the locking elements are not connected to each other by an axle/shaft, and are pinless rotatable by the actuating plunger around a virtual, freely guided pivoting axle/shaft in a connection zone" is unclear, does this mean the locking elements are not connected, but are "virtually" connected?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English.

Claims 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Mills et al. (Mills – US 6,752,562).

Regarding claim 10, Mills discloses a lock pin (10) with pushbutton-operated axial locking, comprising a tubular body (14) having radially outwards directed recesses (42), an actuating plunger (16) in said tubular body and axially displaceable under spring loading (66), locking elements (82) pointing in opposite directions which are mounted in said radially outwards directed recesses the body and which are moved by pressure of said plunger, and wherein the locking elements form a virtual, freely guided pivoting axle/shaft (86) in a connection zone.

Regarding claim 11, Mills discloses a lock pin wherein the locking elements are rigid, inflexible bodies.

Regarding claim 12, Mills discloses a lock pin wherein the pivoting axle/shaft (86) is freely guided between the locking elements and comprises a bearing shell (pin bores and contacting surfaces between each 18) positioned between the locking elements, into which the plunger engages (by engaging 86 as shown in Figure 2).

Claims 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Leitner (DE 3,223,302).

Regarding claim 10, Leitner discloses a lock pin with pushbutton-operated axial locking, comprising a tubular body (1) having radially outwards directed recesses (18 and 19), an actuating plunger (2) in said tubular body and axially displaceable under spring loading (21), locking elements (12 and 13) pointing in opposite directions which are mounted in said radially outwards directed recesses the body and which are moved

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by pressure of said plunger, and wherein the locking elements form a virtual, freely guided pivoting axle/shaft (at 11) in a connection zone.

Regarding claim 11, Leitner discloses a lock pin wherein the locking elements are rigid, inflexible bodies.

Regarding claim 12, Leitner discloses a lock pin wherein the pivoting axle/shaft (11) is freely guided between the locking elements and comprises a bearing shell (pin bores and contacting surfaces between 12 and 13) positioned between the locking elements, into which the plunger engages (by engaging 11 as shown in Figures 1, 2, and 5).

Claims 19-21 are rejected under 35 U.S.C. 102(a) as being anticipated by Ganter (DE 10154692).

Regarding claim 19, Ganter discloses a lock pin with pushbutton-operated axial locking, comprising a tubular body having radially outwards directed recesses, an actuating plunger in said tubular body and axially displaceable under spring loading, locking elements (20) pointing in opposite directions which are mounted in said radially outwards directed recesses the body and which are moved by pressure of said plunger, and wherein the locking elements are not connected to each other by an axle/shaft, and are pinless rotatable by the actuating plunger around a virtual, freely guided pivoting axle/shaft (at 23) in a connection zone (23).

Regarding claim 20, Ganter discloses a lock pin wherein the locking elements (20) are rigid, inflexible bodies.

Regarding claim 21, Ganter discloses a lock pin wherein the pivoting axle/shaft is freely guided between the locking elements and comprises a bearing shell (23) positioned between the locking elements, into which the plunger engages.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Response to Arguments

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant discusses the cited references and material present in the specification, but does not point out how the claimed invention distinguishes over the prior art.

Conclusion

Applicant's amendment (the addition of claims 19-21) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Le Dantec et al. (US 4,553,889), Hahka (US 6,193,261) are cited for pertaining to lock pins.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Mills whose telephone number is 571-272-8115. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DJM
DJM
5/26/2006



James R. Brittain
Primary Examiner